

FILED

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
Southern Division

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U.S. DISTRICT COURT
N.D. OF ALABAMA

SAMMY T. SCHILLACI, JR.,
Plaintiff(s);

-vs.-

JUST FOR FEET, INC.,
Defendant(s).

No. CV96-P-2994-S

ENTERED

OPINION

APR 28 1997

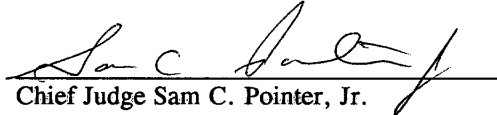
The defendants' Motion to Reconsider Denial of Summary Judgment was considered at the March 27, 1997 motion docket. For the following reasons, this motion is due to be granted in part and denied in part.

Defendants Harold Ruttenberg and Robert C. Wabler are due to be granted summary judgment as to the plaintiff's claim under the Age Discrimination in Employment Act ("ADEA"), 29 U.S.C. §§ 621-34, because individuals cannot be held liable under the ADEA. *Smith v. Lomax*, 45 F.3d 402, 403 n.4 (11th Cir. 1995). Likewise, Ruttenberg and Wabler are due to be granted summary judgment as to the plaintiff's claim under the Family and Medical Leave Act ("FMLA"), 29 U.S.C. § 2611, et seq.

Because there is no cause of action for wrongful discharge in Alabama, *see, e.g., Salter v. Alfa Insurance Co., Inc.*, 561 So. 2d 1050, 1052 (Ala. 1990), Ruttenberg and Wabler are entitled to summary judgment as to the plaintiff's claims of wrongful discharge. As well, the plaintiff has not alleged that Wabler entered into any form of contract with the plaintiff. Therefore, summary judgment is due to be granted in favor of Wabler on the plaintiff's breach of contract claims.

However, the plaintiff has stated a possible claim for breach of contract by Ruttenburg with regard to the stock options offered the plaintiff. Therefore, summary judgment is not due to be granted in favor of Ruttenburg at this time as to the plaintiff's breach of contract claims.

Dated: April 25, 1997


Chief Judge Sam C. Pointer, Jr.

Service List:

Mr. William S. Pritchard, III
Mr. William S. Pritchard, Jr.
Ms. Fern Singer
Ms. Gail C. Washington